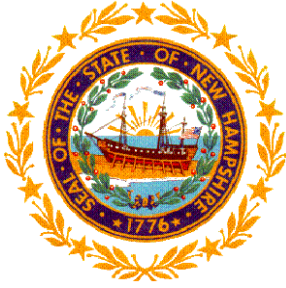


**NEW HAMPSHIRE
DEPARTMENT
OF
ENVIRONMENTAL SERVICES**

**REPORT TO THE LEGISLATURE
REGIONAL INITIATIVES ON
DISPOSAL AND FINANCING OF
ELECTRONICS WASTE**

November 2006





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**REGIONAL INITIATIVES ON THE DISPOSAL AND FINANCING OF
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REPORT TO THE LEGISLATURE REGIONAL INITIATIVES ON THE DISPOSAL AND FINANCING OF ELECTRONICS WASTE

Executive Summary

House Bill 1455, signed into law in 2006, and chaptered as RSA 149-M:27 XXVIII, requires the Department of Environmental Services to monitor and participate in any regional initiatives regarding the financing and disposal of electronic wastes and shall report the results of such efforts, to date, to the House Environment and Agriculture committee and the Senate Environment and Wildlife committee by November 1, 2006. This report fulfills that requirement.

Electronics waste continues to be a problem for disposal. With the exception of display devices, most of the waste has intrinsic recycling value, at least for the plastics and steel. However, deconstruction is either labor intensive or capital intensive. Video display devices, including televisions, computer monitors, liquid crystal displays, and plasma displays, have little to no value at end of life and pose a significant threat to the environment if disposed of improperly.

Recently, the Basel Action Network, which created the original documentary, "Exporting Harm: The High-Tech Trashing of Asia" recently released "The Digital Dump: Exporting Re-Use and Abuse to Africa." This documentary explored the shipment of digital waste to Africa, ostensibly for reuse. They found that at least 70% of the materials were unusable and were being salvaged using very environmentally unsound methods such as burning of wire to recover copper. They provided evidence that much of the material actually came from government agencies and businesses and that most of the computers had intact hard drives from which sensitive information was easily recovered. The United States has signed the Basel Convention but has not ratified it.

National legislation has been proposed with 2 House bills and 1 Senate bill. These three bills use tax refunds to encourage recycling and institute a national ban on the disposal of electronics in landfills and incinerators. Multiple states have enacted or are considering legislation on electronics disposal and each state has essentially taken its own path. The New Hampshire Department of Environmental Services has participated with the Northeast Recycling Council (NERC) and the Council of State Governments Eastern Regional Conference (CSG/ERC) in developing model legislation. Recently, 9 of the 10 states in NERC, including New Hampshire, have endorsed the NERC/CSG model. (Included as an appendix.)

The Department of Environmental Services is working with several groups to provide recycling opportunities for state residents. The recyclers were invited to work with DES and have agreed to share recycling data, to set up one day events at various locations throughout the state, to help fund the brochures and signs, and to help develop public service announcements. DES has also sent out information on the ban to every New Hampshire municipality explaining the ban and the municipality's options to provide recycling service to the residents.

A. Regional Legislative Efforts

In February 2005, the Council of State Governments/Eastern Regional Conference (CSG/ERC) and the Northeast Recycling Council (NERC) began a project to develop a coordinated legislative approach to end-of-life electronics management in the Northeast. CSG/ERC and NERC facilitated an effort among legislators, legislative and state environmental agency solid waste management staff from ten states¹, the U.S. Virgin Islands, Puerto Rico, and Québec to craft model legislation. This effort has resulted in model legislation: *An Act Providing for the Recovery and Recycling of Used Electronic Devices*. (Appendix A)

There is no national program to address electronic waste in a comprehensive manner although there are several bills now in committee at the national level. Four states, California, Maine, Maryland, and Washington, have passed laws that mandate different approaches to financing and administering electronics end-of-life management systems. Other states, New Hampshire and Massachusetts included, have passed outright bans on the disposal of video display devices in landfills and incinerators. More than twenty other states have introduced legislation governing electronic waste. Many state officials and stakeholders in the Northeast agree that, short of a national program, a coordinated regional effort is preferable to having a patchwork of laws and regulations resulting in increased management and compliance costs and decreased recycling opportunities. Certainly, it would be in the manufacturers and retailers best interest to press for a national program rather than face 50 plus different state and territory programs. The economic impact of compliance with these varying, and in some cases conflicting, laws would be enormous.

CSG/ERC and NERC developed a consensus model with input from state, province, and territory legislators, the corresponding environmental agencies, retailers, manufacturers, recyclers, and other stakeholders during the project. During the 14 months leading to the issuance of the model, teleconferences and stakeholder meetings led to the incorporation of many of the suggestions provided by stakeholders. It should be noted that the more than 50 legislators, legislative, and state environmental agency staff that contributed to this effort during the course of more than a year represent a multiplicity of interests. As expected, there were, and continue to be, differing opinions regarding the provisions included in the final legislative proposal. It is generally understood that each state, if it chooses to file legislation, will tailor the model to the needs of the residents and constitutional requirements of the state. There was agreement that any legislation should maintain the general principles of the model, particularly the financing mechanism.

1. Legislative Model Provisions Discussion

It was agreed by the NERC/CSG/ERC stakeholder working group to limit the scope of covered electronic devices (CEDs) in the final legislative model to desktop and personal computers, computer monitors, laptops, and televisions. The legislation includes an option for either the legislature or the state regulatory agency to expand the scope of regulated products as appropriate. NHDES expressed the view that the lead-containing video devices items were the

¹ Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

primary concerns and expanding to cover all electronics became a matter of difficulty in determining what exactly is an electronic device as opposed to electrical equipment. Such an attempt at a definition of electronics would result in an overly complex bill. NHDES believes that a ban on the disposal of video display devices, specifically, any device that displays a picture that is greater than 4 inches in diagonal measurement is adequate to create a viable electronics recycling infrastructure for all types of electronics. Whether further legislation creating a financing mechanism is necessary should be considered after the ban has been in place for a time in order to judge the effectiveness of just the ban. NHDES believes there are adequate recycling resources within the state to accommodate the residents of the state.

There was consensus that the financing mechanism for an end-of-life electronics management system must not impose direct fees on the consumer, and that the financial responsibility must rest with the manufacturers. The consensus was also that retailers should not be involved in the collection of fees. Other priorities were to create a simple and equitable system for covering waste items that were manufactured by companies no longer in business, to ensure that minimal burden is placed on municipalities for the collection and transport of used electronics to consolidation or processing centers, and that existing infrastructures are incorporated into new statewide programs. In addition, many legislators wished to create a financial incentive for the development of manufacturer-run programs. The consensus position was that manufacturers of CEDs would be required to report on sales (or request that the state agency calculate their sales on their behalf), pay an annual registration fee, and either pay for the cost of collecting, transporting, and recycling their total obligation (or share) of CEDs, by weight, or implement take-back programs that result in the collection, transportation, and recycling of their total obligation. Manufacturer obligation is based on the annual sales, by weight, of CEDs in the previous year multiplied by the state recycling rate for electronics. NHDES supports the concept of manufacturer responsibility but does not support the use of the state recycling rate to adjust the amount of financial obligation. The state recycling rate is calculated as the ratio of the weight of total overall returns of covered electronic devices in the state to the weight of total overall sales of CEDs in the state during the previous calendar year. Essentially, this would reward the maintenance of a low recycling rate. Further, companies that have sales during a low recycling rate year would not have paid their fair share for those CEDs when they reach end-of-life. Rather, the NHDES proposes that all manufacturers pay a fee based on total weight alone. Funds thus received would be available when an item was recycled, whether or not the manufacturer was still in business. The model legislation recommends the fee be no more than \$0.50 per pound.

The model legislation also requires all manufacturers to register annually with the state agency and pay a \$5000 registration fee. Manufacturers are also required to report on the total weight sold into the state each year. Many manufacturers claim not to have state specific data on sales. NHDES holds the position that this is not valid because of universal bar codes or radio frequency identification devices (RFIDs) on virtually all items offered for sale and computer-based inventory systems. NHDES does see an issue of compliance with the registration requirement. There are realistically no more than 25 computer manufacturers, most of which have a corporate presence in the United States. There are well over 250 television manufacturers in the world, most of which are in Asia. Many of these manufacture private labels for large chains and have no corporate presence in the United States. It will be necessary to precisely define the concept of manufacturer such that the first appearance of the CED on US soil becomes the manufacturer.

Therefore, the warehouse, company or broker that imports the CED will become the manufacturer and be responsible for the registration fee. Otherwise, the registration requirement for televisions would be unenforceable.

An alternative to manufacturer reporting proposed in the model is to have retailers report on sales. Retailer stakeholders are adamantly opposed to this.

The legislation calls for a ban on disposal of CEDs in a municipal solid waste landfill two years following enactment. Some participants favored shortening the period from two years to as few as 90 days. New Hampshire has already instituted a ban in lieu of a fee-based system predicated on market forces taking care of the increased availability of recyclables.

2. Current Legislation in the Northeast

a. Maine

Maine's new E-waste law distributes the responsibility for collection, transportation, and recycling of electronics among residents, municipalities, consolidators, and manufacturers. Beginning January 18, 2006, manufacturers will be paying for the recycling of residentially-generated televisions and computer monitors in Maine. These same manufacturers will be paying for the transportation of these items when loads reach 16,000 lbs or more. Beginning July 20, 2006, the disposal of TVs and computer monitors is prohibited in Maine. This means that each municipality must provide its residents with a means to recycle their televisions and computer monitors (or ship these wastes out of state for disposal). Manufacturers are individually responsible for the costs of handling and recycling of all household-generated waste computer monitors and televisions once they are received at a consolidation facility in Maine. This includes products manufactured by any business for which the manufacturer has assumed legal responsibility. Computer monitor manufacturers are also responsible for a pro rata share of orphan waste computer monitors, and television manufacturers are responsible for a pro rata share of orphan waste televisions.

b. Massachusetts

Cathode ray tubes (CRTs) from television and computer monitors were prohibited from all Massachusetts solid waste disposal facilities effective April 1, 2000. Initially, CRT recycling was very expensive for municipalities, but costs have fallen dramatically as demand for old units has risen. MassDEP also provided grants in the early 1990s to help more than 70 towns and cities establish CRT collection programs. These grants were out of state general funds. Once the system was in place, grants were discontinued. Today, most CRTs are collected through participating charities like Goodwill and the Salvation Army, or collected with other bulky waste, at the curb, or at municipal drop-off centers, generally for a small fee. It is estimated that there are about 50 commercial recyclers operating in Massachusetts.

c. Connecticut

Senate Bill 196 was passed and transmitted to the Connecticut house for action. This bill has fees paid by consumers upon purchase of TVs and monitors of \$6, \$8 or \$10, depending on size of device. The fees collected by retailers, remitted to State, which, in turn, reimburses recyclers.

d. Vermont

Vermont has several bills in committee in 2006. House 700 and Senate 270 require manufacturers to pay a fee on sale of each covered device into state administered fund for recycling. The fee is visible to consumer at purchase. House 212 establishes individual producer responsibility. Manufacturers must implement program for collection and recycling of e-waste.

e. Rhode Island

H6743 requires producers to establish recycling programs individually or collectively. Bills in house and senate both require producer responsibility, but they are not identical bills. The senate bill more like Maine law, where cities collect and take waste to consolidation centers. Rhode Island also has established a state-wide permanent recycling facility as part of the Rhode Island Resource Recovery Corporation, a quasi-governmental solid waste agency. This was passed into law as H7527 in 2004.

f. New Hampshire

New Hampshire enacted HB 1455 which placed a ban on the disposal of video display devices in landfills or incinerators effective July 1, 2007.

B. National Trends

Appendix B is a list of all known legislative efforts in the United States as of September 2006. It is quite apparent that each state that has considered or that has passed legislation has taken a somewhat unique approach to the electronic waste issue. Benjamin H. Wu, Assistant Secretary for Technology Policy, U.S. Department of Commerce, in a speech at the National Conference of Legislatures on August 17, 2005, stated, "How our e-waste solutions are developed and who is involved in the decision process can dramatically affect the U.S. technology industry's manufacturing and marketing business models, as well as their competitiveness. A growing concern is that as several states have begun consideration of different legislative proposals, . . . , it's conceivable that within the United States there could be as many as 50 different sets of laws or regulations which will significantly impact an important sector of the U.S. economy."² Basically, Secretary Wu is making a plea for the various stakeholders to work together to create a national strategy and legislation for dealing with the issues of electronic waste and to not wait until the states have each enacted their own laws.

² U.S. Dept. of Commerce, Recycling Technology Products, An Overview of E-Waste Policy Issues, July 2006, pp. 122-225.

The Department of Commerce recommends:

1. A national definition of covered products to eliminate guesswork.
2. Set performance goals such as targets for percent or weight per capita for collection and recycling.
3. Provide flexibility for local and regional solutions in collection methods, such as using collection incentive payments, not mandates or a centrally proscribed collection process.
4. Change the treatment of e-waste under existing solid waste regulation so that it can be reused and recycled without triggering “Hazardous Waste” regulations.
5. Set environmentally sound management guidelines for recycling and provide a system of auditing to ensure that dismantlers and recyclers are evaluated against these guidelines.
6. Control the export of hazardous electronics waste to developing countries either for disposal or for recycling to organizations and countries not in compliance with U.S. treatment of the same materials.
7. Maintain the flexibility to find the best recycling solutions on an international level within the confines of environmentally sound management guidelines
8. Establish procedures to oversee and enforce the system to ensure fairness and uniform participation, regardless of the financing system chosen.
9. Ensure that funds collected for handling e-waste are used only for recycling e-waste and not diverted to other purposes.
10. Standardize labeling and reporting requirement across the country.
11. Mandate that all producers within a product category ascribe to the same standards.
12. Mandate that all producers who sell over the internet and foreign producers are full participants.
13. Use the federal governments marketing power to drive design for the environment and design for recycling procurement.

C. Summary

National legislation based on existing models such as the battery and tire recycling models is needed to prevent 50 plus programs being installed by the various states, cities, and territories. Indeed, in some states, counties have enacted their own ordinances in lieu of state action. The State of New Hampshire should continue to partner with regional and national efforts as a stakeholder and not enact legislation, other than the disposal ban now in place. Market forces alone should suffice for New Hampshire as evidenced by the effect of a ban on disposal in Massachusetts. With little state effort, a recycling industry for e-waste has been created in Massachusetts and it is now serving at least 95% of the state’s residents.

However, the State of New Hampshire Department of Environmental Services should make every effort to inform state residents of the ban and of their recycling options. In addition, the Department has notified every municipality of the ban and will be using public service announcements to inform the residents. The Department’s Solid Waste Technical Assistance Section will be providing help to the municipalities in the form of brochures and signs. In addition, a meeting has been held between the Department and a number of the state’s recyclers.

An agreement has been made to share collection data, announcements of collection events, and to help with the creation of literature explaining the ban and recycling options.

Appendix A – NERC/CSGERC Model Electronic Recycling Legislation

An Act Providing for the Recovery and Recycling of Used Electronic Devices

Purpose: The purpose of the Act is to establish a comprehensive recycling system that ensures the safe and environmentally sound management of electronic devices and components and that encourages the design of electronic devices and components that are less toxic and more recyclable; and promotes the development of a statewide infrastructure for collection and recycling of end-of-life electronics.

Section 1: Definitions

For the purposes of this Act, the following terms have the following meanings:

- (a) “Agency” means the *[State Environmental Agency]*
- (b) "Cathode ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.
- (c) “Computer” means an electronic, magnetic, optical, electrochemical, or other highspeed data processing device performing logical, arithmetic, or storage function, and may include both a computer central processing unit and a monitor, but such term does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other similar device.
- (d) “Consumer” means an individual who purchases a covered electronic device in a transaction that is a retail sale.
- (e) “Covered Electronic Device” (CED) for the purposes of this Act means desktop/personal computers, computer monitors, portable computers, CRT-based televisions, and non-CRT-based televisions sold to consumers. “Covered electronic device” does not include any of the following:
 - i. A covered electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
 - ii. A covered electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment.
 - iii. A covered electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier.
 - iv. Telephones of any type unless they contain a video display area greater than 4” measured diagonally.
- (f) “Covered electronic recycler” is one that is approved by the Agency for compensation.
- (g) “Manufacturer” means any person who, either as of the effective date of this legislation or thereafter, and irrespective of the selling technique used, including by means of remote sale: 1) manufactures covered electronic devices under its own brand for sale in this State; 2) manufactures covered electronic devices for sale in this State without affixing a brand, 3) resells in this State covered electronic devices produced by other suppliers under its own brand or label; or 4) imports or exports covered electronic devices into the United States for sale in this State. However, if a company from whom an importer purchases the merchandise has a U.S. presence and/or assets, that company shall be deemed to be the manufacturer; or, 5) manufactures covered electronic devices, supplies them to any person or persons within a distribution network that

includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered electronic devices through that distribution network.

(h) "Manufacturer's brands" means a manufacturer's name, brand name, or brand label, and all manufacturer's names, brand names, and brand labels for which the manufacturer has legal responsibility, including those names, brand names, and brand labels of companies that have been acquired by the manufacturer.

(i) "Monitor" means a separate video display component of a computer, whether sold separately or together with a computer central processing unit/computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology, greater than four inches when measured diagonally, and its case, interior wires and circuitry, cable to the central processing unit, and power cord.

(j) "Obligation" means the quantity of covered electronic devices, by weight, identified for an individual manufacturer, as defined by the Agency under Section 8 of this Act.

(j) "Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government agency, partnership, limited liability company, or association.

(k) "Portable computer" means a computer and video display greater than four inches in size that can be carried as one unit by an individual (e.g., a laptop computer).

(l) "Purchase" means the taking, by sale, of title in exchange for consideration.

(m) "Recycling" means any process by which covered electronic devices that would otherwise become solid waste or hazardous waste are collected, separated, and processed to be returned to use in the form of raw materials or products, in accordance with environmental standards established by the Agency.

(n) "Registrant" means a manufacturer of covered electronic devices that is in full compliance with the requirements of this Act.

(o) "Retail sales" includes sales of products through sales outlets, via the Internet, mail order, or other means, whether or not the seller has a physical presence in this State.

(p) "Retailer" means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.

(q) "Sell" or "sale" means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, and excluding leases.

(r) "State recycling rate" means the ratio of the weight of total overall returns of CEDs in the State to the weight of total overall sales of CEDs in the State during the previous calendar year.

(s) "Television" means a stand-alone display system containing a CRT or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches when measured diagonally, able to adhere to standard consumer video formats such as PAL, SECAM, NTSC, and HDTV and having the capability of selecting different broadcast channels and support sound capability.

(t) "Video Display" means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display (and cannot be easily removed from the display by the consumer) that produces the moving image on the screen. Displays typically use a cathode ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image projection technology.

Section 2: Scope of Products

The scope of products is the same as “Covered Electronic Devices”. [The scope of products may be modified by _____].

Section 3: Sales Prohibition

(1) A manufacturer not in compliance with all financial and other requirements of this Act is prohibited from offering a covered electronic device for sale in this State.

(2) It shall be unlawful for any entity to offer for sale in this State a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this Act. The Agency shall maintain a list of all manufacturers in compliance the requirements of this Act and post the list on an Internet website. Sellers of products in or into the State shall consult the list prior to selling covered electronic devices in this State. A seller shall be considered to have complied with this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

Section 4: Labeling Requirement

On and after the effective date of this Act, a manufacturer or retailer may not sell or offer for sale a covered electronic product in the State unless it is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

Section 5: Reporting and Registration

(1) Manufacturers of covered electronic devices shall report to the Agency by January 30 of each year the total weight of CEDs sold in the State the previous calendar year. In lieu of providing the total weight of CEDs sold in the State the previous calendar year, a manufacturer may request that the Agency calculate the total weight of CEDs sold in the State by using prorated national sales data based on State population.

(2) Each manufacturer of covered electronic devices shall register with the Agency by January 30 of each year and pay a registration fee of \$5,000.

Section 6: Manufacturer Responsibility

(1) Manufacturers of CEDs sold in the state must submit an additional fee based on sales in the State to the Agency. The fee shall be calculated using the following formula: the State recycling rate multiplied by the weight of sales of the manufacturer's covered electronic devices sold in the State during the previous calendar year, multiplied by no more than \$0.50 per pound.

(2) In lieu of payment of the fee set forth in paragraph 1 above, a manufacturer or a group of manufacturers may submit a plan to collect, transport, and recycle CEDs.

(3) An individual manufacturer submitting a plan in lieu of payment of the fee set forth in paragraph 1 above must collect, transport, and recycle a quantity of CEDs equal to the weight of sales of the manufacturer's covered electronic devices in the State during the previous calendar year multiplied by the State recycling rate.

(4) A group of manufacturers jointly submitting a plan in lieu of payment of the fee set forth in paragraph 1 above must collect, transport, and recycle the sum of the obligations of each participating manufacturer.

(5) The plan shall be filed with a manufacturer's annual registration, and shall include at a minimum:

- i. Methods that will be used to collect the CEDs including the name and locations of all collection and consolidation points.
- ii. An estimate of the amount of CEDs that will be collected annually.
- iii. The processes and methods that will be used to recycle recovered CEDs including a description of the disassembly, physical recovery operation (e.g., crushing, shredding, grinding,

glass-to-glass recycling) and /or other operations that will be used. Include the name and location of all facilities to be utilized.

iv. Documentation of audits of each processor used in the plan and compliance with processing standards established under Section 11 of this Act.

v. A description of the accounting and reporting systems that will be employed to track progress toward fulfilling the plan's obligations.

vi. Means that will be utilized to publicize the collection opportunities.

vii. The intention of the registrant to fulfill its obligations through operation of its own program, either individually or in partnership with other manufacturers.

viii. The total weight of CEDs collected, transported and recycled the previous year.

(6) Before the fee set forth in paragraph 1 above may be waived, the plan must be reviewed and approved by the Agency. Upon approval of the plan by the Agency, the manufacturer payment of the annual fees based upon sales will be waived. The Agency may reject the plan in part or in whole and may impose additional requirements as a condition of approval.

(7) If a manufacturer fails to comply with all the conditions and terms of an approved plan, it will be required to submit the following:

i. A payment to the Agency to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation. The payment shall be equal to the following formula: the quantity of the outstanding portion, in pounds, multiplied by no more than \$0.50, and

ii. A penalty in the form of a payment equal to the cost of collecting, transporting and recycling 10% of the manufacturer's total obligation.

(8) Manufacturers that collect, transport, and recycle CEDs in excess of their obligation may sell "credits" to another registrant or apply that excess to the following year's recycling obligation.

Section 7: Retailer Responsibility

(1) A retailer must clearly post and provide information provided by the Agency that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number and website, information included in the packaging, or information provided accompanying the sale of the covered electronic device. This information shall be provided in clear written form in English and any other languages deemed to be primary languages by the State Department of Education.

(2) A retailer shall only sell products from registrants. Retailers shall consult the list described in Section 3 prior to selling covered electronic devices in this State. A retailer shall be considered to have complied with this responsibility if on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

Section 8: Agency Responsibility [States may wish to designate a third-party organization to assume some or all of the responsibilities contained in this section]

(1) By February 15 of each year, the Agency shall establish the State recycling rate, by calculating the ratio of the weight of total overall returns of CEDs in the State to the weight of total overall sales of CEDs in the State during the previous calendar year.

(2) By March 1 of each year, the Agency shall provide each registrant with its responsibility for fees from sales or for collection, recycling, and transportation in pounds for that year.

(3) The Agency shall receive fees as described in Section 6 from manufacturers for the sale of covered electronic devices.

(4) The Agency must organize, administer, and ensure that at least one electronics collection opportunity is available at least five (5) days a week in each county throughout the State and in

such a manner as to be convenient, to the maximum extent feasible, to all consumers in the County.

(5) The Agency shall ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.

(6) The Agency shall encourage the use of existing collection and consolidation infrastructures for handling CEDs to the extent that this infrastructure is accessible on a regular and ongoing basis to at least 85% of the population of the State, is cost effective, and meets the environmentally sound management requirements of Section 11.

(7) The Agency shall maintain a list of registrants and post the list on an Internet website that is updated at least once a month.

(8) The Agency shall organize and coordinate public education and outreach.

(9) The Agency shall use the revenues received from registrants for the sole purpose of fulfilling its responsibilities under this Act. In the event that expenses from administration, education, collection, transportation, and recycling activities exceed receipts, the Agency may borrow up to ten percent of the projected annual State revenues from fees submitted under this Act from outside sources. Borrowed funds must be repaid within two years.

(10) The Agency shall prepare a plan every three years that:

- i. establishes per-capita collection and recycling goals, and
- ii. identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals.

That plan shall be posted on the Agency website and sent to the Legislature.

(11) The Agency shall annually report:

- i. A list of all parties that the Agency has designated as approved to receive payments for collection, transportation, or recycling, the amount of payments it has made to those parties, and the purpose of those payments.
- ii. The total weight of CEDs collected in the State the previous calendar year.
- iii. The total weight of CEDs sold in the State the previous calendar year.
- iv. Progress toward achieving the overall annual total recovery and recycling goals described in the plan described in Section 8, above.
- v. A complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site.
- vi. An evaluation of the effectiveness of the education and outreach program
- vii. An evaluation of the existing collection and processing infrastructure.

(12) The Agency shall annually post the report on its website.

(13) The program implemented to effect the provisions of this Act and its associated regulations shall be fully audited by an independent, certified public accountant at the end of each calendar year and said audit report submitted to the Legislature.

(14) The Agency shall maintain a website and toll-free number complete with up-to-date listings of where consumers can bring covered electronics products for recycling under this Act.

(15) The Agency shall not be held financially liable or responsible for any violation of federal, state, or local law by any entity to whom the Agency makes payment pursuant to Section 10.

(16) No more frequently than annually and no less frequently than biennially, the Agency shall review, at a public hearing, the CED recycling and registration fee(s). Recommended changes to the covered electronic device recycling rate and registration fee(s) shall be included in the annual report.

Section 9: Fees for the Collection or Recycling of Covered Electronic Products

No fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic products.

Section 10: Reimbursement for Collection, Transportation, and Recycling

(1) The Agency shall engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices.

(2) The Agency shall make covered electronic device payments for the collection, transportation, and recycling of covered electronic devices to an authorized or approved entity upon receipt of a completed and verified invoice submitted to the Agency in the form and manner determined by the Agency.

a. In order to receive payment, proof will be required:

i. That the covered electronic device was collected from a consumer who is a resident of the State or is otherwise located in the State, or who provides evidence that the device was purchased in the State after the effective date of this Act.

ii. That the collection, transportation, and recycling of the CED was conducted in accordance with all local, state, and federal laws, including the requirements created by this Act, and its associated regulations.

b. No fees or costs were charged to the consumer.

Section 11: Environmentally Sound Management Requirements

(1) Covered electronic devices collected through any program in [State], whether by manufacturers, retailers, for-profit or not-for profit corporations, units of government, or organized by the Agency, must be recycled in a manner that is in compliance with all applicable federal, state, and local laws, regulations, and ordinances, and must not be exported for disposal in a manner that poses a significant risk to the public health or the environment.

(2) The Agency shall establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds from the Agency. All entities shall, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's (EPA) Guidance on Environmentally Sound Management of Electronic devices as issued and available on the EPA's website in addition to any other requirements mandated by state or federal law.

(3) The Agency shall maintain a website that shall include a list of entities and organizations that it has determined have met these performance standards.

Section 12: Disposal Ban

Two years after enactment of this law, it shall be illegal for any person to place in municipal solid waste a covered electronic device or any of the components or subassemblies thereof in any solid waste disposal facility.

Section 13: Enforcement

(1) The State including its Attorney General and the Agency shall be authorized to initiate independent action to enforce any provision of this law, including failure by the manufacturer to remit the fee to the Agency. Any funds awarded by the court shall be used first to offset enforcement expenses. Money in excess of the enforcement expenses shall be deposited with the Agency.

(2) An offense shall be considered:

(i) the sale of a new CED by any person that is not in full compliance with the provisions of this Act.

(ii) application for compensation for the collection, transportation and recycling of covered electronic products not collected within the state, or region as provided in Section 16.

(iii) use of a qualified collection program to recycle covered electronic products not discarded within the state, or region as provided in Section 15.

(iv) the knowing failure to report or accurately report any data required to be reported to the Agency by this Act.

(v) non-payment of fees.

Section 14: Regulatory Authority

The Agency may adopt rules and regulations as shall be necessary for the purpose of administering this Act.

Section 15: Multi-State Implementation

The Agency is authorized to participate in the establishment and implementation of a regional, multi-state organization or compact to assist in carrying out the requirements of this Act.

Section 16: Relation to Federal Law

This Act is intended to govern all aspects of the collection and recycling of covered electronic devices as those terms are defined herein. Upon the implementation of an acceptable national program to collect and/or recycle covered electronic devices, the provisions of this Act shall sunset within the timeframe determined by federal law.

Section 17: Effective Date

Unless otherwise specified, this Act shall take effect on January 1, 2007.

Section 18: Severability Clause

The provisions of this Act shall be severable, and if any part of this Act is declared to be invalid or void by a court of competent jurisdiction, the remaining portion shall not be affected, but shall remain in full force and effect and shall be construed to be the entire Act.

Appendix B – Current Legislation

Current Legislative Activities - September 2006						
City, State, Region, National	Take-back Bills	ARF Bills	Study Bills	Disposal Bans	Other Bills	Notes
	"Take-back bills" establish producer responsibility - where manufacturers pay for costs of recycling.	"ARF bills" establish Advanced Recycling Fees, where consumers pay an extra fee when they buy certain products. The fee goes into a recycling fund.	"Study bills" typically set up a task force to make recommendations to the legislature on how to proceed on e-waste issues.	"Disposal ban bills" typically ban certain electronic devices, usually CRT monitors and TVs, from landfills and/or incinerators.	Other approaches to the issue.	
National Efforts						
					HR4553 reintroduced as HR320 in 2005 Tax Incentives to Encourage Recycling (TIER) Act. Tax incentives up to \$4 for recycling of Electronics	
		HR1165 \$10 fee at time of purchase				Also provides grants to establish and encourage recycling
				Electronic Waste Recycling and Promotion and Consumer Protection Act of 2005	Electronic Waste Recycling and Promotion and Consumer Protection Act of 2005	\$8 tax credit to companies that recycle more than 5,000 display units per year and a \$15 tax credit to consumers who recycle
Regional Efforts						

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Midwest Region 5 Process						Six states in the midwest (EPA Region 5) are working to draft bill language for the region. Process not complete. Current draft is producer paid model. States are Minnesota, Michigan, Illinois, Wisconsin, Ohio, and Iowa
Northeast States Regional Process						Ten states in the northeast are working together, with the Council of State Governments and Northeast Recycling Council to draft language. Process not complete, current draft is producer paid model. States are: ME,NH, VT, MA, RI, PA, NY, DE, NJ, CT,
State Efforts						
Alabama						

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Alaska						
Arizona						
Arkansas	No session 2006			Landfill ban passed in 2005. Effective 2008. Affects only state agencies		
California		Passed 2004. Implemented Jan 2005		In effect		Fees paid by consumers upon purchase of TVs and monitors - \$6 - \$8 - or \$10. Fees collected by retailers, remitted to State, who reimburses recyclers.
Colorado:					Cathode Ray Tube Recycling Pilot Program: CSR 25-17-105.5	State agency may make grants or loans to private industry and public-private partnerships
Connecticut	Also part of Northeast region process (see above)	SB196 Passed Senate, March 2006				Fees paid by consumers upon purchase of TVs and monitors - \$6 - \$8 - or \$10. Fees collected by retailers, remitted to State, who reimburses recyclers.

Current Legislative Activities - September 2006						
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Delaware	Also part of Northeast region process (see above) Delaware chose not to support the NERC/CSG model					SB244 Redirects unclaimed promotional rebates offered by the manufacturers of certain electronic devices the State to fund the recycling of those devices. Producers can avoid this funding mechanism by creating their own take-back programs which achieve rate
Florida		SB 674 and SB 678			Florida legislature authorized \$2 million in grants to develop recycling infrastructure.	SB 674 and SB 678 imposed a \$10 fee at time of purchase. Both were withdrawn
Georgia						

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Hawaii			HB 475 Carried over to 2006 session. SB455 Carried over to 2006 session	SB1077: Bans CRTs in landfill after July 2008	SB1505: 2 year pilot program in 2 high schools for recycling reusing computers	HB475 and SB455 established electronic waste task force within Dept of Health to make recommendations for recycling program, landfill diversion. SB1077 Directs the State to adopt rules to establish a cathode ray tube recycling program. Prohibits CRTs in landfills after 7/1/08. Requires reports to legislature.
Idaho						
Illinois	Part of Midwest Region 5 Process		Study bill passed 2005: Findings due May 31, 2006			
Indiana						
Iowa	Part of Midwest Region 5 Process		Conducted study in 2003			
Kansas						

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Kentucky			HCR28			E-scrap Task Force, to be composed of nine members, to study ways to increase recycling of electronic waste; report findings and recommendations to the Legislative Research Commission by December 1, 2006.
Louisiana			2005 Joint resolution: Joint committee would study issue, make recommendations before 2006 session			
Maine	Passed 2004, Implemented Jan 2006			In effect		Established individual producer responsibility. Mfgs collect e-waste from consolidation points, and recycle.
Maryland	HB 575 Passed 2005					5 year pilot program. Companies pay annual fee to state. State uses funds to reimburse counties for recycling.

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Massachusetts	HB 3238 Also part of Northeast region process (see above)			In effect since 2000		HB 3238 Establishes individual producer responsibility. Mfgs must implement program for collection, recycling by Jan 2008.
Michigan			SB 495 HB 4156	HB4155, HB4156, SB 218		HB4155 calls for an incinerator ban, HB4156 and SB 218 call for landfill bans on CRTs
Mississippi:						
Missouri						

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Minnesota	SF1595 HF 1729	SF1398/HF1996		Landfill ban passed in 2005. Deadline pushed back to take effect 2007		All MN bills are carried over from 2005 - No activity yet from 2006 (session began in March). HF1729/SF1595 establish producer responsibility. SF1595/HF1729 established producer responsibility, but allows a temporary advanced recycling fee (ARF) SF1398/HF1996 establish \$10 ARF paid at retail.
Montana						
Nebraska:	LB 1031 LB190					LB 1031 establishes individual producer responsibility. Mfgs must implement program for collection, recycling by Dec 2007
Nevada:						

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New Hampshire				HB1455		Bans disposal of video display devices in landfills and incinerators after July 2007
New Jersey	S554 Passed					Assembly bill requires manufacturer paid recycling for both computers and TVs. Senate bill now amended to require computer companies to pay for computer recycling, but uses Advanced Recycling Fee (paid by consumers) to pay for television recycling.

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New Mexico			Report issued Nov 2005		SB 388, funds for voluntary pilot project.	2005 Task force report recommended setting up voluntary pilot program for recycling. Current bill, SB 388, allocates \$25K in public money to establish pilot program, to be spent only if matched by funds from mfgs and retailers.
New York State	A3200	HB3202		A1454 S1287	HB3332 SB1562 tax credits	A1454 and S1287 call for landfill ban as of 2009, and requires State to set up electronics recycling program.
New York City	INT 104					This producer responsibility bill is pending before the New York City Council.
North Carolina	Tax on manufacturers that do not submit a recycling plan to the state. Introduced			Passed in 2005, effective Oct 2009		
North Dakota						

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Ohio	Part of Midwest Region 5 Process					
Oklahoma			HB2525 in committee			HB 2525 sets up task force to meet thru Dec 31, 06
Oregon		\$50 fee on every CRT levied at point of sale			Requires state to participate in national electronics product stewardship initiative	
Pennsylvania	Part of Northeast region process (see above)					
Rhode Island	H6743 in committee				S2021 Requires municipalities to set up recycling programs for e-waste.	-.
S Carolina:		SB1132 H4510 In Committee				Similar to California model. Consumers pay fee or 6, 8, or 10. State administers
S Dakota						
Tennessee		HB0467 SB0673 In committee			HB631 and SB 28 Would transfer surplus state computers to schools	No action on ARF bills in 2006. ARF bills have retailers collect fees, remit to third party organization to reimburse recyclers.

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Texas:						
Utah			SB 215			Creates task force to make recommendations by Nov 30, 2006. Did not pass before March 1 adjournment.
Vermont:	Multiple bills			H 700 and S270 include landfill ban H212 includes landfill and incineration ban		H 700 and S270 require manufacturers to pay a fee on sale of each covered device into state administered fund for recycling. Fee is visible to consumer at purchase. H 212 establishes individual producer responsibility. Mfgs must implement program for collection, recycling

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Virginia						2003 bill authorized localities to prohibit the disposal of CRTs in privately operated landfills, if the locality has implemented a CRT recycling program
Washington	SB6428 Passed					Mfgs either pay into central recycling plan (run by 3rd party org) or they set up individual recycling programs
West Virginia						
Wisconsin	SB367			SB367 includes landfill ban.		Establishes individual producer responsibility. Mfgs must implement program for collection, recycling
Wyoming						